

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 26, 2005

IN RE:

PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC, TO EXPAND ITS SERVICE
AREA TO INCLUDE A PORTION OF SEVIER
COUNTY, TENNESSEE, KNOWN AS THE
SMOKY VILLAGE SUBDIVISION

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) DOCKET NO.
) 05-00145
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ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Director Deborah Taylor Tate, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on July 11, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service area to include a portion of Sevier County, Tennessee known as Smoky Village Subdivision.

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ ("TWS" or "Company") received a Certificate of Public Convenience and Necessity ("CCN") in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company's principal office is located in Nashville, Tennessee. On May 13, 2005, TWS filed the

¹ Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA's order of February 19, 2004, in Docket No. 03-00518

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate. . . .

The Petition

On May 13, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Sevier County, Tennessee known as Smoky Village Subdivision. TWS attached several letters to its *Petition* in support of its request to expand its service area. TWS attached a letter from the developer expressing its desire that TWS provide service to the property. TWS attached letters from each of the three other potential wastewater service providers stating that none of the potential providers currently serve the area. The letters also indicate that none of the other potential wastewater service providers intend to extend wastewater service to Smoky Village Subdivision.²

The Company also attached a listing of the estimated system costs and revenues for five

² See *Petition* (unnumbered attachments) (March 21, 2005) Letter from Alex Davis, D&S Builders, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (April 27, 2005), Letter from Bryan C. Atchley, Mayor, City of Sevierville, Tennessee, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (April 22, 2005), Letter from Larry Waters, Sevier County, County Mayor, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (April 27, 2005), Letter from Mike Jones, Manager, Shady Grove Utility District to Tennessee Wastewater Systems, Inc (April 8, 2005)

years, a billing summary of the Company's residential sewer rates and a service area map showing the proposed location of Smoky Village Subdivision.³ As noted on the billing summary, the Company will charge a \$35.11 residential sewer rate for the Smokey Village Subdivision.

The July 11, 2005 Hearing

Pursuant to Tenn. Code Ann. § 65-4-201(a), public notice of the Hearing in this matter was issued by the Hearing Officer on June 16, 2005. No person sought intervention prior to or during the Authority Conference. At the Authority Conference held on July 11, 2005, Mr. Charles Pickney, President of TWS, participated, presented testimony and was subject to examination by the panel. Mr. Pickney moved to have his Pre-Filed Testimony entered into the record in this matter at the Authority Conference. The Pre-Filed Testimony states that the Company has the managerial, technical and financial ability to provide wastewater services to Smoky Village Subdivision.⁴ Additionally, the panel took administrative notice of TWS's 2004 annual report filed with the Authority. At the time of the Authority Conference TWS had not yet received a final approved permit from the Tennessee Department of Environment and Conservation ("TDEC") for the system.

Upon the presentation of the Company's proof, the evidentiary record as a whole and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), the panel voted unanimously to grant approval of the *Petition* subject to receipt of a final approved permit from the TDEC evidencing its approval of the Company's application to provide service to Smoky Village Subdivision. The panel also ordered that TWS notify the Authority in writing at the time it receives an operating permit from TDEC for Smokey Village Subdivision.

³*Petition*, (unnumbered attachments) (May 13, 2005)

⁴ Charles Pickney, Jr , Pre-Filed Testimony, p 1 (May 13, 2005)

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Smoky Village Subdivision in Sevier County, Tennessee, as shown in the map attached to the *Petition* is approved subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation.
2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.
3. Tennessee Wastewater Systems, Inc. shall provide written notification to the Authority once it has received a final approved permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to Smoky Village Subdivision in Sevier County, Tennessee.


Deborah Taylor Tate, Director


Pat Miller, Director


Sara Kyle, Director